

1 JAIDEEP VENKATESAN, SBN 211386  
jvenkatesan@be-law.com  
2 CAROLINE McINTYRE, SBN 159005  
cmcintyre@be-law.com  
3 PETER SOSKIN, SBN 280347  
psoskin@be-law.com  
4 BERGESON LLP  
111 N. Market Street, Suite 600  
5 San Jose, California 95113  
Telephone: (408) 291-6200  
6 Facsimile: (408) 297-6000  
7 Attorneys for Defendants  
PROCEPTION, INC. and ZHONGJIE “JAY” LI  
8

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION  
11

12 TESLA, INC., a Texas Corporation,  
13 Plaintiff,  
14 v.  
15 PROCEPTION, INC., a Delaware  
Corporation, and ZHONGJIE “JAY” LI, an  
16 individual,  
17 Defendants.

Case No. 5:25-cv-04963-SVK

**DEFENDANTS’ OBJECTIONS TO  
PLAINTIFF’S REPLY RE MOTION FOR  
EXPEDITED DISCOVERY AND  
“CORRECTED” EXHIBIT A TO THE  
DECLARATION OF JEFF LIANG**

Judge: The Honorable Susan van Keulen  
Date: July 3, 2025  
Time: 9:30 a.m.

1 Defendants Proception, Inc. (“Proception”) and Zhongjie “Jay” Li (“Li”) hereby object to  
2 Plaintiff Tesla, Inc.’s (“Tesla”) new evidence submitted with its Reply Brief in support of its  
3 Motion for Expedited Discovery and to the “corrected” Exhibit A filed by Tesla to the Declaration  
4 of Jeff Liang in support of its Motion for Preliminary Injunction (the “Liang Declaration”). Dkts.  
5 43-44. Pursuant to the Court’s June 26, 2025 Order Setting Briefing Schedule (Dkt. 37),  
6 Defendants filed their opposition to Tesla’s Motion for Expedited Discovery on June 30, 2025  
7 (Dkt. 40) (Defendants’ “Opposition” to Tesla’s “Motion”). In their Opposition, Defendants  
8 highlighted factual discrepancies and deficiencies in the Liang Declaration, including as to the  
9 timing of Li’s alleged access to the Tesla SharePoint drive and Mr. Liang’s citation to his Exhibit  
10 A to support his statements. As explained in Defendants’ Opposition, the errors in these  
11 statements and exhibits were relevant to Defendants’ position that Tesla should not be permitted  
12 expedited discovery because it has not provided evidence from which reasonable inferences could  
13 be drawn for expedited discovery or a preliminary injunction – and Tesla should not be allowed to  
14 conduct a fishing expedition for evidence to support claims it had no basis to allege.

15 On July 1, 2025, at around 9 PM, Tesla filed a “Corrected” Exhibit A to Mr. Liang’s  
16 declaration. This Exhibit A includes a revised Tab J that purports to include additional evidence  
17 regarding Li’s alleged access to documents on Tesla’s SharePoint and provides columns for Tab A  
18 that were missing from the originally filed Exhibit A. Tesla followed by filing its reply brief with  
19 a new declaration of Mr. Liang, which concedes and attempts to explain the errors raised in  
20 Defendants’ Opposition.

21 This is the third correction Tesla has made to its Motion for Preliminary Injunction,<sup>1</sup>  
22 though Tesla took two months to prepare that Motion as well as its concurrently-filed Motion for  
23 Expedited Discovery, which it requested be heard on shortened time. Tesla’s submission of new  
24 evidence and attempt to correct the deficiencies in its proffered evidence should not be  
25 countenanced, particularly on the eve of the hearing given the shortened time frame Tesla

26  
27 <sup>1</sup> Tesla initially failed to file a public version of Tab I to exhibit A, which it subsequently filed  
28 after that was noted by Defendants, and then replaced its originally filed Exhibit F to the Liang  
Declaration with a version that omitted relevant evidence.

1 demanded. Defendants respectfully request that the Court not consider Tesla’s newly proffered  
2 evidence without giving Defendants an opportunity to respond. See *Provenz v. Miller*, 102 F.3d  
3 1478, 1483 (9th Cir. 1996) (“We agree with the Seventh Circuit, which held that ‘[w]here new  
4 evidence is presented in a reply to a motion for summary judgment, the district court should not  
5 consider the new evidence without giving the [non-]movant an opportunity to respond.’”)

6 Defendants further respectfully request that the errors in Tesla’s exhibits and its  
7 subsequent corrections underscore that Tesla has not met its burden of providing evidence from  
8 which reasonable inferences can be made to justify expedited discovery. *Am. LegalNet, Inc. v.*  
9 *Davis*, 673 F. Supp. 2d 1063, 1067 (C.D. Cal. 2009) (denying expedited discovery because “there  
10 is no evidence, and no reasonable inference can be drawn” supporting the plaintiff’s claim). To the  
11 extent additional evidence would be useful, it would be a complete production from Tesla of  
12 Microsoft Office 365 and Splunk logs from Tesla, rather than the selective and repeatedly  
13 modified versions presented by Tesla in its motion papers.

14 Dated: July 2, 2025

BERGESON LLP

15  
16 By: 

Jaideep Venkatesan, SBN 211386

17  
18 Attorneys for Defendants  
19 PROCEPTION, INC. and ZHONGJIE “JAY” LI  
20  
21  
22  
23  
24  
25  
26  
27  
28